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Idaho v. United States, 533 U.S. 262 (2001)

Idaho v. United States, 533 U.S. 262 (2001) (holding that although the default rule is that land under navigable waters passes from the United States to a newly admitted state upon statehood, an exception to this rule existed where Congress created a reservation, post-dating Idaho's statehood, for the Coeur d'Alene Tribe in Idaho because Congress intended to reserve submerged lands in the reservation and intended to defeat the future state of Idaho's title to the submerged lands with the reservation).

On June 7, 1890, following years of negotiations and various agreements, the United States Senate passed a bill ratifying 1887 and 1889 agreements between the United States Government and the Coeur d'Alene Tribe ("Tribe") for a reservation of land in northern Idaho and northeastern Washington. This reservation encompassed all of Lake Coeur d'Alene and part of the St. Joe River. On July 3, 1890, while the House of Representatives was considering the Senate Bill, Congress passed the Idaho Statehood Act. This act admitted Idaho into the Union and ratified Idaho's Constitution, which disclaimed all right and title to land within its borders owned by Indians and left such land under the jurisdiction of the United States. On March 3, 1891, Congress ratified both the 1887 and 1889 agreements with the Tribe.

In 1998, the United States initiated an action in the United States District Court for the District of Idaho against the state of Idaho to quiet title to the submerged lands within the boundaries of the Tribe's reservation. This issue arose when Idaho issued permits for the construction of docks, piers, floats, pilings, breakwaters, boat ramps, and other navigation aids in the southern part of Lake Coeur d'Alene. The Tribe intervened to assert its interest in the lands and Idaho counterclaimed to quiet title in its favor. The district court quieted title to the bed and banks of Lake Coeur d'Alene and the St. Joe River within the boundaries of the Tribe's reservation in favor of the United States, as trustee, and to the Tribe, as the beneficiary. In 2000, the United States Court of Appeals for the Ninth Circuit affirmed. In 2001, the United State Supreme Court granted certiorari and affirmed.

According to the Supreme Court, the default rule is that land under navigable waters passes from the United States to a newly admitted state upon statehood. There is a strong presumption against defeat of a state's title when evaluating Congress' intent and resolving conflicts over submerged lands. However, the Supreme Court noted that when submerged lands are located within a tract that the United States has dealt with in some special way before statehood, such as reserving lands for a particular national purpose like an Indian reservation, the evaluation of congressional intent is refined somewhat. According to the Court, the proper inquiry is whether Congress intended to reserve submerged lands in the reservation, and, if so, whether Congress intended to defeat the future state's title to

those submerged lands.

Turning to the first question, the Supreme Court recognized that Idaho had conceded that its earlier agreements with the Tribe included submerged lands. In addition, the Supreme Court agreed with the findings of the district court, and noted that the right to control the lake bed and adjacent waters was traditionally important to the Tribe because their livelihood depended on fishing. Thus, an acreage determination of the reserved area in 1883 necessarily included the area of the lake bed. Given Idaho's concession and the district court's findings, the Supreme Court found that Congress clearly intended to include the submerged lands in the reservation to the Tribe.

Turning to the second question, the Supreme Court recognized that Idaho had conceded that an 1888 report by the Secretary of the Interior regarding the scope of the reservation included all the navigable waters of Lake Coeur d'Alene. In addition, the Supreme Court noted that: (1) the United States could avoid hostilities between white settlers and the Tribe only by agreeing to a reservation that included submerged lands, (2) Congress dealt and negotiated in a fair manner with the Tribe to fulfill that objective, (3) that Congress ratified the agreements without any language indicating the submerged lands had passed to Idaho upon its statehood, and (4) such agreements included the sale of lands within the reservation to others with the compensation going directly to the Tribe. Given Idaho's concession and the district court's findings, the Supreme Court found that Congress clearly intended to defeat the future state of Idaho's title to the submerged lands.

Matthew J. Costinett

Kansas v. Colorado, 533 U.S. 1 (2001) (holding that Colorado is liable to Kansas for monetary damages and prejudgment interest dating back to 1985 for Colorado's violation of the Arkansas River Compact).

Congress approved the Arkansas River Compact ("Compact") between Colorado and Kansas in 1949. The Compact provided, *inter alia*, that future development in the river basin could not materially deplete the usable quantity or availability of water to other users. In 1986, Kansas invoked the Supreme Court's original jurisdiction alleging that Colorado had violated the Compact. The Court granted Kansas leave to file a complaint and appointed a Special Master. The Special Master's first report recommended the Court find that Colorado's post-Compact groundwater pumping had materially depleted the waters in violation of Compact Article IV-D. The Court remanded the case to the Special Master to determine the appropriate remedy. The Special Master's second report recommended an award of damages, to which Colorado filed exceptions. The Court overruled Colorado's exceptions without prejudice and remanded the case to the